

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Case No. 16mc65(DSD/FLN)

Kristy Lawson,

Plaintiff,

v.

ORDER

Kwik Kargo, Inc.

Defendant.

This matter is before the court upon Administrative Law Judge William S. Colwell's motion to enforce a subpoena issued to Evert Lawson. Judge Colwell cites to 49 U.S.C. § 31105(e) as the basis for the court's authority to enforce a subpoena in an administrative hearing. The statute provides that "[i]f a person fails to comply with an order issued under subsection (b) of this section, the Secretary of Labor shall bring a civil action to enforce the order in the district court ... for the judicial district in which the violation occurred." 49 U.S.C. § 31105(e). Subpoenas, however, are not among the types of orders that are referenced in 49 U.S.C. § 31105(b), nor is the motion brought by the Secretary of Labor as contemplated by the statute. The court, therefore, does not have jurisdiction to enforce the subpoena. See 29 C.F.R. § 18.56 ("When a person fails to obey a subpoena, the party adversely affected by the failure may, when authorized by statute or by law, apply to the appropriate district court to enforce the subpoena.").

Further, even if the court had jurisdiction, there is no evidence before the court that the subpoena was properly served on Lawson. In the absence of such evidence, the court will not exercise its power to compel an individual to appear. As a result, the court must respectfully deny the motion.

Accordingly, **IT IS HEREBY ORDERED** that the motion to enforce subpoena [ECF No. 1] is denied.

Dated: November 7, 2016

s/David S. Doty
David S. Doty, Judge
United States District Court